

## **NATIONAL DEFENSE AUTHORIZATION ACT, FY 2002.**

**Public Law 107-107** approved December 28, 2001 (115 STAT. 1012), contains the following provisions of particular interest.

**National Defense Sealift Fund.** Section 302 (115 STAT. 1047) authorized \$407,708,000 for this fund.

**Service Academies/Foreign Students.** Section 533 (115 STAT. 1105) amended the provisions for the U.S. Military Academy, U.S. Naval Academy and U.S. Air Force Academy to generally increase the number of foreign students from 40 to 60, and authorize the waiver of the reimbursement requirement.

**Hazardous Duty Pay.** Section 615 (115 STAT. 1136), amended the type of duty eligible for hazardous duty pay to include "regular participation as a member of a team conducting visit, board, search, and seizure operations abroad vessels in support of maritime interdiction operations."

**Transfer Of Naval Vessels to Foreign Countries.** Section 1011 (115 STAT. 1210), generally authorizes the President, for a two year period, to transfer by sale or grant the enumerated vessels to Poland, Turkey, and Taiwan. To the extent possible, the repair or refurbishment of such vessels shall be performed in U.S. shipyards, including U.S. Navy shipyards.

**Sale of GLOMAR EXPLORER.** Section 1012 (115 STAT. 1211), authorizes the Secretary of the Navy to sell the GLOMAR EXPLORER to the current lessee at a fair and reasonable price.

**Uniform Services Voting.** Title XVI, Sections 1601 through 1607, facilitates voting by members of the uniformed armed services. Section 1601(b)(2) (115 STAT. 1274) defines the term "uniformed services voter" to include "a member of the merchant marine (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6))." A member of the merchant marine is defined in 42 U.S.C. 1973ff-6(4) as follows: "(4) 'member of the merchant marine' means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)-- (A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or (B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;".

**Naval Petroleum Reserves.** Section 3401 (115 STAT. 1391) authorized \$17,371,000 to the Department of Energy for fiscal year 2002 activities.

**Maritime Administration Provisions.**

**Funds Authorized.** Section 3501 ( 115 STAT. 1391) provides:

"Funds are hereby authorized to be appropriated for fiscal year 2002, to be available without fiscal year limitation if so provided in appropriation Acts, for the use of the Department of Transportation for the Maritime Administration as follows: (1) For expenses necessary for operations and training activities, \$89,054,000. (2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), \$103,978,000, of which- (A) \$100,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of loan guarantees under the program; and (B) \$3,978,000 is for administrative expenses related to loan guarantee commitments under the program. (3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, \$10,000,000."

**War Risk Insurance.** Section 3502 (115 STAT. 1392) amended Section 1201(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1281(c)), to define the term "war risks" to include, to such extent as the Secretary may determine- "(1) all or any part of any loss that is excluded from marine insurance coverage under a 'free of capture or seizure' clause, or under analogous clauses; and (2) other losses from hostile acts, including confiscation, expropriation, nationalization, or deprivation."

**Title XI Deposit Fund.** Section 3503 (115 STAT. 1392) added new Section 1109, to the Merchant Marine Act, 1936, to allow the Maritime Administration to deposit and invest in the U.S. Treasury, an obligor's funds, as collateral for a guaranteed issued under Title XI. These depository Funds will be used to substitute for the Construction Fund and the Title XI Reserve Fund which are currently maintained at financial institutions.

**Report to Congress on Strategic Sealift Deficiency.** The Conference Report to accompany S. 1438 (H. Rpt. 107-333), at page 712, under Legislative Provisions Not Enacted, contains the following item of interest:

"Action to promote national defense features program

"The House amendment contained a provision (sec. 1053) that would direct the Secretary of Defense to certify to the Federal Maritime Commission restrictive trade practices for cases in which vessels built, or to be built, under the National Defense Features (NDF) program are involved.

"The Senate bill contained no similar provision.

"The House recedes.

"The conferees agree the NDF program has the potential to provide incentive for construction of commercial ships in the U.S.

"The strategic sealift NDF program provides compensation for commercial ships that have Defense Department unique alterations required for carrying defense cargo. The program was intended to reduce the requirement for government-owned ships by supplementing them, when required, with commercial shipping capable of carrying Defense Department unique cargo such as tanks, heavy vehicles, and ammunition.

"The NDF program can only be successful if commercial ship owners decide to build ships in U.S. shipyards based on the potential for successful operations when not involved in defense department operations.

"Although it is not the responsibility of the Secretary of Defense to monitor commercial shipping trade issues, it is within the purview of the Secretary to assess and report to Congress on the Defense Department's ability to provide the required strategic sealift.

"Thus, the Secretary is directed to notify Congress when he determines that a strategic sealift deficiency exists, and measures to correct such a deficiency are not being undertaken because of the unwillingness of commercial ship owners to participate in the NDF program."

**DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002.** Public Law 107-117, approved January 10, 2002 (115 STAT. 2230), contains the following provisions of particular interest.

**National Defense Sealift Fund.** At 115 STAT. 2244 provides: "For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$432,408,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement

may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That, notwithstanding any other provision of law, \$25,000,000 of the funds available under this heading shall be available only to finance the cost of constructing additional sea-lift capacity.

**Buy American Provisions.** Certain Buy American provisions are set forth in Sections 8016, 8033, 8050, 8065, 8089, 8096 (115 STAT. 2250, 2254, 2258, 2262, 2266, 2268).

**Competition between DOD Activities and Private Firms.** Section 8035 (115 STAT. 2255), provides: "SEC. 8035. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section."

**Medical Supplies to Samoa.** Section 8066 (115 STAT. 2262) provides that notwithstanding any other provision of law, DOD funds may be used to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to America Samoa.

**Naval Shipyards/Manufacturing Extension Program.** Section 8068 (115 STAT. 2262), provides that notwithstanding any other provision of law, Naval shipyards shall be eligible to participate in any manufacturing extension program financed by this or any other Act.

**Loan Guarantees.** Section 8073 (115 STAT. 2264) provides: "To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide

quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code."

**Maritime Fire Training Center.** Section 8092 (115 STAT. 2267), appropriates up to \$2.6 million for the center at Barbers Point.

**USS ALABAMA Battleship Foundation.** Section 8138 (115 STAT. 2279) provides for a \$4.2 million grant to this nonprofit organization.

**USS INTREPID Sea-Air-Space Foundation.** Section 8139 (115 STAT. 2279) provides for a \$4.25 million grant to preserve the U.S.S. INTREPID as a museum and memorial.

**American Fisheries Act/Amendment.** Section 205 (115 STAT. 2298) provides: "From within funds available to the State of Alaska or the Alaska Region of the National Marine Fisheries Service, an additional \$500,000 may be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, division B of Public Law 106-554 (114 Stat. 2763A-242) and that subparagraph is amended to read as follows: '(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of \$100,000,000 under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g)'."

**Port Security Emergency Expenses.** At (115 STAT. 2327) appropriates funds as follows: "For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for the "Transportation Security Administration", \$94,800,000, to remain available until September 30, 2003, to be obligated from amounts made available in Public Law 107-38: Provided, That \$93,300,000 shall be for the Under Secretary of Transportation for Security to award competitive grants to critical national seaports to finance the costs of enhancing facility and operational security: Provided further, That such grants shall be awarded based on the need for security assessments and enhancements as determined by the Under Secretary of Transportation for Security, the Administrator of the Maritime Administration, and the Commandant of the U.S. Coast Guard: Provided further, That such

grants shall not supplant funding already provided either by the ports or by any Federal entity: Provided further, That no more than \$1,000,000 of the grant funds available under this heading shall be used for administration." Appropriations for such emergency expenses of other agencies follow.

The Conference Report (H. Rpt. 107-370), provides at page 443: "There are 361 public ports in the United States and they conduct over 95 percent of United States overseas trade. The Interagency Commission on Crime and Security in U.S. seaports reported in the fall of 2000 that the state of security in U.S. seaports generally ranges from poor to fair and that control of access to the seaport or sensitive areas within the seaport is often lacking. The Commission found that criminal organizations are exploiting weak security in ports to commit a wide range of cargo crimes and that the vulnerability of American ports to potential terrorist attacks is high. The Commission recommended minimum security guidelines for U.S. seaports and implementation of a five-year crime and security technology plan. The conference agreement includes \$93,300,000 for grants to U.S. seaports for security assessments and enhancements. The funds provided in the conference agreement can be used for security assessments and for implementation of measures once assessments have been performed. The conferees do not intend this grant funding to be used to displace current security funding and activities either provided by the ports or by federal agencies. The funding provided in the conference agreement is to be used for additional security activities not now being performed at the ports. In developing and administering this grant program, the Under Secretary of Transportation for Security is expected to work in cooperation with local port authorities and other affected federal agencies, including the Coast Guard and Maritime Administration."

**Title XI Guarantees--Passenger Vessels Under Construction.** The Conference Report (H. Rpt. 107-370), provides at page 389: "MOBILE DEPLOYABLE ASSETS. In the wake of the tragic events of September 11, 2001, the conferees are concerned that future deployments of United States forces may expose personnel to the risk of terrorist attack similar to the bombing of Khobar Towers in Saudi Arabia and the Marine barracks in Beirut. Instead of building vulnerable fixed barracks for United States forces deployed in highly dangerous locations, the conferees believe the Navy should give the highest consideration to acquiring mobile, deployable assets, which could provide additional 'in situ' hospital, housing, MWR, or command and control capability. The conferees recommend that the Navy expeditiously pursue the possibility of capitalizing MARAD loan guarantees for up to two multipurpose passenger ships presently under construction in a United States shipyard."

# NATIONAL DEFENSE RESERVE FLEET READY RESERVE FORCE

## BASIC STATUTORY AUTHORITY.

### SEC. 11. NATIONAL DEFENSE RESERVE FLEET (50 U.S.C. App. 1744 (2001)).

(a) **Fleet Components.** The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

(b)<sup>1</sup> **Permitted Uses.** Except as otherwise provided by law, a vessel in the fleet may be used—

(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or

(2) on the request of the Secretary of Defense, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

(A) testing for readiness and suitability for mission performance;

(B) defense sealift functions for which other sealift assets are not reasonably available; and

(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

### **(c) Ready Reserve Force Management.**

(1) **Minimum Requirements.** To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

<sup>1</sup> Section 6205(a) of Public Law 102-587, approved November 4, 1992 (106 STAT. 5094), reinstated subsection (b) and provides: "The effective date of this subsection is December 12, 1989."

(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

(B) activate and conduct sea trials on each vessel at least once every twenty-four months;

(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

**(2) *Vessel Managers.***

(A) *Eligibility for Contract.* A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

(B) *Contract Requirement.* The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code for a seaman performing that service while operating the vessel if the vessel were not a public vessel.

(e) **Exemption of Fleet from 46 U.S.C. 3703a.** Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.<sup>2</sup>

**CERTAIN LAWS AFFECTING THE NATIONAL DEFENSE  
RESERVE FLEET**

**1. FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.**

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<sup>2</sup> 46 U.S.C. 3703a, (2001). Tank Vessel Construction Standards, provides for the so-called double hull requirement.



**a. Maritime Administration Authority to Dispose of Vessels.**  
Section 203 of the Federal Property and Administrative Services Act, of 1949, as amended (40 U.S.C. 484 (2001)) provides:

**40 U.S.C. 484 (2001). Disposal of Surplus Property.**

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(i) **Vessel; laws governing sales.** The Maritime Administration shall dispose of surplus vessels of one thousand five hundred gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use, and such vessels shall be disposed of only in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

**b. Exclusion of Certain Maritime Administration Authority.**  
Section 602 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 474 (2001)), provides:

**40 U.S.C. 474 (2001). Congress, departments, agencies, corporations, and persons exempted from provisions.** The authority conferred by this Act shall be in addition and paramount to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith, except as otherwise provided by the Office of Federal Procurement Policy Act [41 U.S.C. 401 *et. seq.*], and except that sections 205(b) and 206(c) of this Act [40 U.S.C. 486(b), 487(c)] shall not be applicable to any Government corporation or agency which is subject to the Government Corporation Control Act (59 Stat. 597; 31 U.S.C. 841).

(d) Nothing in this Act shall impair or affect any authority of—

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(16) the Maritime Administration with respect to the construction, reconstruction, and reconditioning (including outfitting and equipping incident to the foregoing), the acquisition, procurement, operation, maintenance, preservation, sale, lease, or charter of any merchant vessel or of any shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for the carrying out of any program of such Administration authorized by law, or nonadministrative activities incidental thereto: Provided, That the Maritime Administration shall to the maximum extent that it may deem practicable, consistent with the fulfillment of the purposes of such programs and the effective and efficient conduct of such activities, coordinate its operations with the requirements of this Act, and the policies and regulations prescribed pursuant thereto;

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**2. DISPOSAL OF CERTAIN NDRF VESSELS.**

**a. National Defense Authorization Act for Fiscal Year 2000.** Public Law 105 - 261, approved October 17, 1998 (112 STAT. 1920), contains the following sections:

**Sec. 3602. Authority to Convey National Defense Reserve Fleet Vessel.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to a purchaser for use as a self-propelled floating trade exposition to showcase United States technology, industrial products, and services.

(b) **Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.**—Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

**Sec. 3603. Authority to Convey Certain National Defense Reserve Fleet Vessels.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO-191) and HENRY ECKFORD (TAO-192) to a purchaser for the limited purpose of reconstruction of those vessels for sale or charter to a North Atlantic Treaty Organization country for full use as an oiler.

(b) **Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date;

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel; and

(F) with respect to the vessel, the recipient remains subject to all laws and regulations governing the export of military items, including the requirements administered by the Department of State regarding export licenses and certification of nontransfer end use.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) **Proceeds.**—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

#### **SEC. 3605. Conveyance of NDRF Vessel Ex-USS LORAIN COUNTY.**

(a) **Authority To Convey.**—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST-1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the “recipient”), for use as a memorial to Ohio veterans.

(b) **Terms of Conveyance.**—

(1) *Delivery of vessel.*— In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required conditions.*— The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional terms.*— The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.**—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

**b. Coast Guard Authorization Act of 1998.** Public Law 105–383, approved November 13, 1998 (112 STAT. 3441), contains the following provision:

**Sec. 427. Authority to Convey National Defense Reserve Fleet Vessels.**

(a) **Authority to Convey.**-Notwithstanding any other law, the Secretary of Transportation (referred to in this section as "the Secretary") may convey all right, title, and interest of the Federal Government in and to either or both of the vessels . . . S.S. HATTIESBURG VICTORY (United States official number 248651) to The Victory Ship, Inc., located in Tampa, Florida (in this section referred to as the "recipient"), and the recipient may use each vessel conveyed only as a memorial to the Victory class of ships.

(b) **Terms of Conveyance—**

(1) *Delivery of Vessel.*-In carrying out subsection (a), the Secretary shall deliver a vessel-

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) *Required Conditions.*-The Secretary may not convey a vessel under this section unless-

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and (B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) *Additional Terms.*-The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.** -The Secretary may convey to the recipient of any vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

c. **DOD Authorization Act for FY 2001.** Section 3503 of Public Law 106-398 (114 STAT. 1654-492) provides:

**Sec. 3503. Authority to Convey National Defense Reserve Fleet Vessel, GLACIER.**

(a) **Authority to Convey.**-The Secretary of Transportation (in this section referred to as "the Secretary") may, subject to subsection (b), convey all right, title, and interest of the United States Government in and to the vessel in the National Defense Reserve Fleet that was formerly the U.S.S. GLACIER (United States official number AGB-4)

to the Glacier Society, Inc., a corporation established under the laws of the State of Connecticut that is located in Bridgeport, Connecticut (in this section referred to as the "recipient").

**(b) Terms of Conveyance—**

(1) *Required Conditions.*—The Secretary may not convey a vessel under this section unless the recipient—

(A) agrees to use the vessel for the purpose of a monument to the accomplishments of members of the Armed Forces of the United States, civilians, scientists, and diplomats in exploration of the Arctic and the Antarctic;

(B) agrees that the vessel will not be used for commercial purposes;

(C) agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or national emergency;

(D) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, or lead paint after the conveyance of the vessel, except for claims arising from use of the vessel by the Government pursuant to the agreement under subparagraph (C); and

(E) provides sufficient evidence to the Secretary that it has available for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(2) *Delivery of Vessel.*—If the Secretary conveys the vessel under this section, the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(3) *Additional Terms.*—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **Other Unneeded Equipment.**—If the Secretary conveys the vessel under this section, the Secretary may also convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet or Government storage facilities for use to restore the vessel to museum quality or to its original configuration (or both).

(d) **Retention of Vessel in NDRF.**—The Secretary shall retain in the National defense Reserve Fleet the vessel authorized to be conveyed under this section until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of the conveyance of the vessel under this section.

**3. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.** Section 16 of Public Law 104-239, approved October 8, 1996 (110 STAT. 3138), the Maritime Security Act of 1996, provides:

**SEC. 16. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.**

(a) **In General.** The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using renewable contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act, shall award 9 contracts for this purpose.

(b) **Use of Various Contracting Arrangements.** In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

(c) **Contract Requirements.** Each contract with a shipyard under this section shall—

(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard;

(2) be effective for 1 fiscal year; and

(3) be renewable, subject to the availability of appropriations, for each subsequent fiscal year through fiscal year 1998.

(d) **Limitation of Work Under Contracts.** A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1774(d)(2)) applies.

(e) **Geographic Distribution.** The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

(f) **Reports.** The Secretary shall submit to the Congress—

(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel included in the contract, no later than 20 months after the date of the enactment of this Act; and

(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.

**4. CONVEYANCE OF EQUIPMENT.** Section 1009 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3959), the Coast Guard Authorization Act of 1996, provides:

**SEC. 1009. CONVEYANCE OF EQUIPMENT.**

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

**5. LIMITED DOUBLE HULL EXEMPTION.**

Section 1103 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3966), the Coast Guard Authorization Act of 1996, amended 46 U.S.C. 3703a(b) in part by the addition of a paragraph (6) to exclude from the double hull requirement: "(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744)."

**6. EXISTING TANK VESSEL RESEARCH.** Section 1134 of Public Law 104-324, approved October 19, 1996 (110 STAT. 3984), the Coast Guard Authorization Act of 1996, provides:

(a) **Funding.**—The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section, is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

(b) **Use of Public Vessels.**—The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.